

**IN THE SUPERIOR COURT OF THE STATE OF DELAWARE
IN AND FOR NEW CASTLE COUNTY**

STATE OF DELAWARE)	
)	
v.)	I.D. No. 0402010188
)	
JAMIL C. EDWARDS,)	
)	
Defendant.)	

**UPON CONSIDERATION OF DEFENDANT’S FIRST
PRO SE MOTION FOR POSTCONVICTION RELIEF
DENIED**

Submitted: December 9, 2008
Decided: February 24, 2009

This 24th day of February, 2009, it appears to the Court that:

1. Following a trial by jury in Superior Court in 2006, Defendant Jamil C. Edwards (“Edwards”) was convicted of Murder in the First Degree and Possession of a Firearm During the Commission of a Felony. The charges stemmed from an incident in which Edwards fatally shot Robert Johnson. At trial, Edwards’s prison cellmate Michael Mude (“Mude”) testified that he heard Edwards confess to shooting Johnson. On cross-examination, Mude admitted that he was prejudiced against African-Americans.¹ Mude also testified that charges against him were dropped and

¹ Mude is Caucasian. Edwards is African-American. See Docket 50 (Partial Trial Tr. (March 2, 2006)), at 20:4-5.

he was released from prison after providing police with a statement incriminating Edwards. The defense presented testimony from a prosecutor indicating that charges against Mude were dropped in exchange for his testimony in Edwards's case.²

2. Edwards's convictions were reversed on direct appeal to the Delaware Supreme Court.³ In 2007, Edwards pleaded guilty to Manslaughter and Possession of a Firearm During the Commission of a Felony. For the Manslaughter charge, he was sentenced to twenty years at Level V, suspended after eighteen years for lower levels of supervision. In addition, he received a mandatory sentence of three years at Level V for the weapons charge.⁴

3. In January 2008, Edwards filed a motion for sentence reduction on the grounds that this Court improperly relied upon erroneous information in the presentence investigation report, which related that Edwards participated in drug-dealing and purse-snatching from the age of ten. Edwards contends that the report is inaccurate because he only informed the investigator that his childhood friends engaged in those activities, not that he

² Docket 51 (Partial Trial Tr. (March 3, 2006)), at 17:1-18:5.

³ See *Edwards v. State*, 925 A.2d 1281 (Del. 2007).

⁴ See Docket 82.

had participated. This Court denied Edwards's motion on the basis that the sentence was appropriate and no additional information had been presented to warrant a reduction.⁵ On appeal, the Delaware Supreme Court affirmed, noting that the sentence was within statutory limits, that Edwards was afforded the opportunity to confer with counsel and correct any misstatements at the sentencing, and that the claimed inaccuracies were not the sole information relied upon by the Court in imposing its sentence.⁶

4. In this, his first *pro se* Motion for Postconviction Relief pursuant to Superior Court Criminal Rule 61, Edwards asserts two claims of ineffective assistance of counsel. First, Edwards argues that his counsel was ineffective in permitting him to plead guilty or in failing to seek a withdrawal of his guilty plea, because “[Mude] committed perjury by stating that he was not promise[d] anything for his testimony.”⁷ Edwards asserts that his counsel should have filed a motion in limine challenging the admissibility of Mude's statements before Edwards's retrial. Edwards apparently feels that Mude's statements were inadmissible because they were “prejudicial” in several respects: (1) there were inconsistencies

⁵ Docket 84.

⁶ *Edwards v. State*, 959 A.2d 27, 2008 WL 4325522 (Del. Sept. 23, 2008) (TABLE).

⁷ Docket 90.

between Mude's statements to police and his trial testimony regarding his awareness of the victim's name; (2) Mude testified that Edwards recounted that a female had witnessed the shooting, but the only witness to the shooting identified at trial was male; (3) Mude testified that he wanted to have the female witness recant her statement on videotape and then "get rid of her," even though "[t]here's nothing to prove these allegations"; (4) Mude had committed crimes of dishonesty; and (5) Mude admitted to harboring racial prejudices.⁸ According to Edwards, he would have insisted on going to trial "had the [C]ourt granted the motion" to exclude Mude's testimony.⁹

5. Edwards's second claim for ineffective assistance asserts that counsel failed to provide him with the opportunity to review and comment on the presentence investigation report that stated Edwards had snatched purses and engaged in drug-dealing at age ten. Edwards further contends that "[h]ad counsel investigated[,] . . . counsel would have discovered that [Edwards] was never charged or convicted of any robbery charges" at that age.¹⁰

⁸ *Id.*

⁹ Prior to pleading guilty, Edwards attempted to file a *pro se* motion to suppress Mude's testimony at his retrial. *See* Docket 72. Edward's counsel informed him by letter dated September 14, 2007, that the grounds upon which he sought suppression went to the weight given Mude's testimony, not its admissibility.

¹⁰ Docket 90.

6. Before addressing the substantive merits of any claim for postconviction relief, the Court must determine whether the defendant has satisfied the procedural requirements of Superior Court Criminal Rule 61 (“Rule 61”).¹¹ To protect the procedural integrity of Delaware’s rules, the Court will not consider the merits of a postconviction claim that fails any of Rule 61’s procedural requirements.¹²

7. Rule 61(i) establishes four procedural bars to motions for postconviction relief: (1) the motion must be filed within one year of a final judgment of conviction; (2) any grounds for relief which were not asserted previously in any prior postconviction proceeding are barred; (3) any basis for relief must have been asserted at trial or on direct appeal as required by the court rules; and (4) any basis for relief must not have been formerly adjudicated in any proceeding. However, a defect under Rule 61(i)(1), (2), or (3) will not bar a movant’s “claim that the court lacked jurisdiction or . . . a colorable claim that there was a miscarriage of justice because of a constitutional violation that undermined the fundamental legality, reliability, integrity, or fairness of the proceedings leading to the judgment of

¹¹ *Younger v. State*, 580 A.2d 552, 554 (Del. 1990); *see also Bailey v. State*, 588 A.2d 1121, 1127 (Del. 1991); *State v. Mayfield*, 2003 WL 21267422, at *2 (Del. Super. June 2, 2003).

¹² *State v. Gattis*, 1995 WL 790951, at *3 (Del. Super. Dec. 28, 1995) (citing *Younger*, 580 A.2d at 554).

conviction.”¹³ Because a claim of ineffective assistance of counsel alleges a constitutional violation meeting this standard, colorable ineffective assistance claims are not subject to the procedural bars contained in Rule 61(i)(1), (2), or (3).¹⁴

8. To prevail on a claim of ineffective assistance of counsel, a defendant must satisfy the two-part test of *Strickland v. Washington* by showing both: (1) that counsel’s representation fell below an objective standard of reasonableness, and (2) that the errors by counsel amounted to prejudice.¹⁵ The defendant faces a “strong presumption that the representation was professionally reasonable” in attempting to meet the first prong.¹⁶ Under the second prong, the defendant must affirmatively demonstrate prejudice by showing a reasonable probability that, but for counsel’s errors, the proceeding would have had a different result.¹⁷ If either prong is not met, the defendant’s claim fails.

¹³ Super. Ct. Crim. R. 61(i)(5).

¹⁴ See *State v. MacDonald*, 2007 WL 1378332, at *4, n. 17 (Del. Super. May 9, 2007).

¹⁵ *Albury v. State*, 551 A.2d 53, 58 (Del. 1988) (citing *Strickland v. Washington*, 466 U.S. 668, 688, 694 (1984)).

¹⁶ *Wright v. State*, 671 A.2d 1353, 1356 (Del. 1996) (citation omitted).

¹⁷ *Strickland*, 466 U.S. at 694; see also *Fletcher v. State*, 2006 WL 1237088, at *2 (Del. Super. May 9, 2006).

9. Edwards's first ineffective assistance of counsel claim is not barred under Rule 61(i), since the procedural bars of Rule 61(i)(1), (2), and (3) are inapplicable and this ground has not been previously adjudicated. The Court therefore will address the merits of Edwards's first claim.

10. Although his argument is not entirely clear, Edwards appears to assert that if his counsel had filed a motion in limine to exclude Mude's testimony before retrial, it would have either prevented Edwards from pleading guilty or provided a basis for withdrawal of his guilty plea. This argument incorrectly presupposes that a motion to exclude Mude's testimony at retrial would have been granted. Edwards's first claim therefore fails the *Strickland* standard.

11. Credibility, prejudice, bias, lack of corroboration, a witness' prior crimes of dishonesty, and prior inconsistent statements are relevant to the weight given a witness' testimony. Accordingly, these matters constitute proper areas for impeachment.¹⁸ They are not, however, grounds to exclude a witness from testifying. Thus, Edwards's counsel did not act unreasonably by failing to file a baseless motion to suppress Mude's testimony at retrial. In addition, because a motion to exclude Mude's testimony would have been denied, Edwards is unable to establish prejudice. The failure to file a motion

¹⁸ See D.R.E. 607, 609, 611(b), 613, 616.

to exclude Mude from testifying at retrial therefore did not affect Edwards's guilty plea, which was made knowingly and voluntarily.¹⁹ Because he cannot demonstrate that either prong of *Strickland* was violated, Edwards's first claim of ineffective assistance is denied.

12. Edwards's second claim of ineffective assistance of counsel is procedurally barred, because it presents arguments previously adjudicated in his motion for sentence reduction. Rule 61(i)(4) bars any ground for relief which was formerly adjudicated "in a postconviction proceeding . . . unless reconsideration of the claim is warranted in the interest of justice."²⁰ The interest of justice exception is satisfied only if the defendant presents either subsequent legal developments demonstrating that "the trial court lacked the authority to convict or punish the defendant"²¹ or significant factual developments justifying reconsideration of the formerly adjudicated issue.²² The Court need not reconsider a claim which has received prior "substantive

¹⁹ Upon entering his plea, Edwards completed a Truth-in-Sentencing Form, on which he indicated that his plea was entered freely and voluntarily. *See* Docket 75.

²⁰ Super. Ct. Crim. R. 61(i)(4).

²¹ *State v. Fatir*, 2006 WL 3873238, at *3 (Del. Super. Dec. 12, 2006) (citing *Flamer v. State*, 585 A.2d 736, 746 (Del. 1990)).

²² *See, e.g., Weedon v. State*, 750 A.2d 521, 526 (Del. 2000).

resolution” simply because the defendant has repackaged or restated the same claim as an ineffective assistance of counsel argument.²³

13. Edwards’s second claim is premised on his counsel’s failure to investigate or challenge statements in the presentence investigation report that he snatched purses and sold drugs at the age of ten. In essence, this claim revisits the argument Edwards set forth in seeking a reduction of his sentence. In denying a sentence modification, this Court has already held that it would not have altered Edwards’s sentence if the allegations regarding Edwards’s activities at age ten were shown to be false. On appeal, the Delaware Supreme Court again addressed this issue and found that Edwards had the opportunity to correct any factual inaccuracies at his sentencing and that the alleged inaccuracy would not have altered his sentence if corrected.²⁴ The Court now takes this opportunity to reiterate that it did not rely upon any statements regarding Edwards’s alleged childhood misdeeds in rendering a sentence for manslaughter and weapons violations committed more than a decade later. The fact that the same grounds raised in

²³ See *State v. Finocchiaro*, 1994 WL 682434, at *2 (Del. Super. Nov. 16, 1994) (“Defendant cannot simply restate his claim . . . as one of ineffective assistance of counsel and expect it to be considered anew. The Superior Court is not required to reexamine a claim that has received ‘substantive resolution’ at an earlier time simply because the claim is refined or restated.” (citing *Johnson v. State*, 1992 WL 183069, at *1 (Del. June 30, 1992))).

²⁴ *Edwards*, 2008 WL 4325522, at *1.

Edwards's motion to reduce his sentence are now being advanced as an ineffective assistance claim does not permit him to evade Rule 61(i)(4). This issue does not merit reconsideration in the interests of justice, and Edwards has not advanced any argument that the interests of justice exception applies. Therefore, Rule 61(i)(4) bars Edwards's second claim.

14. Based on the foregoing, Edwards's Motion for Postconviction Relief is hereby **DENIED**.

IT IS SO ORDERED.

Peggy L. Ableman, Judge

Original to Prothonotary
cc: Jamil C. Edwards